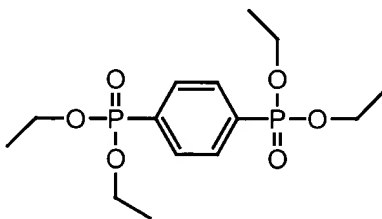


### **REMARKS**

Claims 1-40 are pending in this Application, of which claims 5, 7-19, 22 and 24-38 were withdrawn from consideration. Claims 1-4 and 40 currently stand rejected under 35 U.S.C. § 102(b) as being anticipated by, or alternatively under 35 U.S.C. § 103(a) as being rendered obvious by, United States Patent No. ("USPN") 6,068,950 ("the '950 patent"). Claims 1-4, 6, 23 and 40 currently stand rejected under 35 U.S.C. § 102(b) as being anticipated by USPN 5,455,127 ("the '127 patent"). Claim 21 stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by the '127 patent in view of USPN 6,210,840. Claim 39 stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by either the '950 patent or the '127 patent.<sup>1</sup> Claim 20 is objected to as being dependent upon a rejected base claim but would be allowed if rewritten in independent form to include all the limitations of the base and intervening claims.

#### **Objection to Claim 20**

Applicants have amended claim 20 to include the limitations of base claim 1 and intervening claim 4, thus obviating the Examiner's objection. Further in this regard, the Action inadvertently states that, as recited in claim 20, both benzene-1,4-bis-diethylphosphate and 1,4-bis(diethylphosphoro)benzene refer to the compound having the following structure:

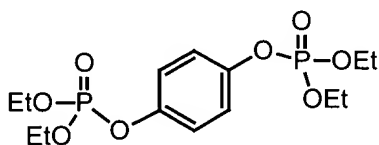


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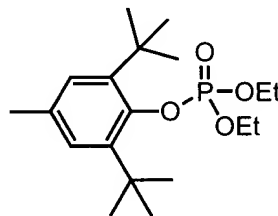
<sup>1</sup> The Action inadvertently states that claims 21 and 39 are "anticipated," instead of being rendered obvious, under 35 U.S.C. § 103(a).

On November 5, 2003, Applicants' undersigned counsel telephoned Examiner Chaney to advise that the above figure cannot be a representation of benzene-1,4-bis-diethylphosphate, as was argued in the Action, because the figure does not contain a phosphate ( $\text{PO}_4$ ) functional group. Applicants' counsel also advised Examiner Chaney that the Action inadvertently states that 1,4-bis(diethylphosphoro)benzene reads on the elected species. This is incorrect because 1,4-bis(diethylphosphoro)benzene does not comprise a oxy derivative of an aryl moiety as the "Z" component, as elected by Applicants. *See* Applicants' Reply of July 16, 2003 at p. 3, which contains the election; *see also* page 26 of Applicants' original disclosure for a structural representation of 1, 4-bis(diethylphosphoro)benzene.

Applicants agree with the Action that the prior art fails to suggest the compounds diethyl(2,6-di-tert-butyl-4-methylphenyl)phosphate and benzene-1,4-bis-diethylphosphate. As indicated in the telephone conference with Examiner Chaney on November 5, 2003, Applicants aver that these compounds are structurally represented as follows:



benzene-1,4-bis-diethylphosphate



diethyl(2,6-di-tert-butyl-4-methylphenyl)phosphate

Applicants further aver that no new matter has been added, as these representations appear in the originally-filed specification at pages 20 and 22. Because the prior art does not

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suggest these two compounds, as recited in claim 20, allowance of this claim is earnestly solicited.

#### **Rejoinder of Claim 34**

Pursuant to MPEP § 821.04, Applicants respectfully request that claim 34 be rejoined. In a prior paper, claims 34 and 38 were withdrawn pursuant to the Examiner's restriction requirement. As amended herein, claim 34 includes the limitations of claim 38 such that claim 34 is directed to a process of making diethyl(2,6-di-tert-butyl-4-methylphenyl)phosphate. As detailed above, the Action states that the prior art fails to suggest this compound (Action p. 7). Allowance of claim 34 is thus earnestly solicited.

#### **Reservation of Rights**

By seeking allowance of claim 20 and the related process recited in claim 34, Applicants do not concede to Examiner's arguments with respect to the other claims, particularly whether any claim is anticipated or rendered obvious by the cited art. In this regard, Applicants respectfully reserve their rights to pursue those claims in a divisional application or any other claim in a related application.

**CONCLUSION**

For the above reasons, Applicants respectfully submit that claims 20 and 34 are in condition for allowance and earnestly solicit a notice in accordance therewith.

Respectfully submitted,

Date: November 17, 2003

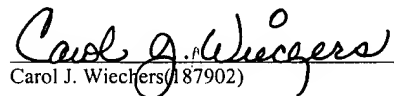
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**CERTIFICATION UNDER 37 C.F.R. § 1.8**

I hereby certify that this Reply to the Office Action of October 14, 2003, is being deposited with the United States Postal Service in an envelope with first-class postage prepaid, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 17, 2003.

  
Carol J. Wiechers (187902)